

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JUSTIN J. ALLEE,	)	
	)	8:05cv229
Petitioner,	)	
	)	AMENDED
vs.	)	BRIEFING ORDER on
	)	REQUEST FOR STAY
NEBRASKA ATTORNEY GENERAL,	)	
et al.,	)	
	)	
Respondents.	)	

In filing no. 29, the respondent asks to be allowed to brief his opposition to filing no. 25, the petitioner's Motion for Stay and Abeyance, until 30 days after the petitioner files his brief in support of the motion, in accordance with the court's Order (filing no. 27) discussing Akins v. Kenney, 410 F.3d 451, 455 (8<sup>th</sup> Cir. 2005), and Rhines v. Weber, 125 S.Ct. 1528 (2005). In filing no. 27, I ordered:

Accordingly, the parties are entitled to be heard regarding the factors weighing for and against a stay. By February 26, 2007, the parties shall submit simultaneous briefs addressing whether the petitioner has diligently pursued his available remedies, the adequacy of the petitioner's claims (insofar as that issue may be assessed without the record) and whether or not the petitioner has engaged in instances of abusive litigation tactics or intentional delay. If either party wishes to submit a reply brief thereafter, that party may file a motion requesting leave to do so and, if so, estimating the time required.

By reordering the briefing schedule, the respondent loses the opportunity to file a reply brief. However, the respondent's motion will be granted. Therefore, the petitioner's initial brief will be due on February 26, 2007, unless an extension of time is granted. The respondent's brief will be due thirty (30) days thereafter, and the petitioner may file a reply brief thirty (30) days after the respondent's brief has been filed. Filing no. 29 is granted.

SO ORDERED.

DATED this 8<sup>th</sup> day of February, 2007.

BY THE COURT:

s/ F. A. GOSSETT  
United States Magistrate Judge